

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

BROOKLYN OFFICE

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MAHRIA BRAITHWAITE,

Plaintiff,

MEMORANDUM and ORDER

10-CV-5817 (SLT) (JO)

— against —

WILMINE PERRIER,

Defendant.
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TOWNES, United States District Judge:

On December 15, 2010, attorneys for plaintiff Mahria Braithwaite filed this diversity action, seeking to recover for personal injuries plaintiff sustained in the course of a December 2007 automobile accident. However, in the 120 days following the filing of the complaint, plaintiff did not file proof of service or any other document indicating that defendant Wilmine Perrier was served with the summons and complaint.

On May 20, 2011, Magistrate Judge James Orenstein issued an order alerting plaintiff to the failure to file proof of service and to the requirements of Rule 4(l) and (m) of the Federal Rules of Civil Procedure. Judge Orenstein directed plaintiff to either file proof of timely service or move for an extension of time to effect service by May 27, 2011, and warned plaintiff that a failure to comply with this directive would result in a recommendation that the case be dismissed for failure to prosecute. Plaintiff did not comply with Judge Orenstein's order and on May 31, 2011, Judge Orenstein issued a report and recommendation (the "R&R"), recommending that this Court *sua sponte* dismiss this action without prejudice pursuant to Rule 4(m). Although the R&R specifically advised plaintiff that any objections to the R&R had to be filed by June 17,

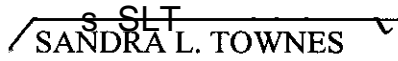
2011, and warned plaintiff of the consequences of failing to file a timely objection, plaintiff has yet to filed any objections to the R&R.

A district court is not required to review the factual or legal conclusions of the magistrate judge as to those portions of a report and recommendation to which no objections are addressed. *See Thomas v. Arn*, 474 U.S. 140, 150 (1985). Nonetheless, when no objections are filed, many courts seek to satisfy themselves “that there is no clear error on the face of the record.” Fed. R. Civ. P. 72(b) advisory committee note (1983 Addition); *see also Edwards v. Town of Huntington*, No. 05 Civ. 339 (NGG) (AKT), 2007 WL 2027913, at *2 (E.D.N.Y. July 11, 2007). This Court has reviewed the R&R for clear error on the face of the record and finding none, hereby adopts the R&R in its entirety as the opinion of the Court pursuant to 28 U.S.C. § 636(b)(1).

CONCLUSION

For the reasons stated above, Magistrate Judge Orenstein’s Report and Recommendation dated May 31, 2011, is adopted in its entirety. This action is dismissed without prejudice pursuant to Rule 4(m) of the Federal Rules of Civil Procedure. The Clerk of Court is directed to enter judgment in accordance with this order and to close this case.

SO ORDERED.


SANDRA L. TOWNES
United States District Judge

Dated: July 6, 2011
Brooklyn, New York